IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7286 OF 2004

Rambrix Yadav & Ors. ...Petitioners

Versus

M/s. Unicity Meta Powder &
Alloy Company & Anr ...Respondents

.....

Mr. Indrajeet Kulkarni, counsel for Petitioner

Ms. Vasanti Kundar, counsel for Respondents.

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 20TH APRIL, 2005

P. C.:-

1. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. Rule. Respondent waives service. By consent taken up for hearing forthwith.

3. The learned counsel for the petitioner has pointed out that the decision of this Court (Single Bench) in the case of **T.K. Varghese Vs. Nichimen Corporation (2001 (3) Mh.L.J. 711** has already been reversed by the Division Bench of this Court in the case of **Chandrakant Ganpatrao Deshkar Vs. All India Reporter Limited & Anr. 2005 (1) Mh.L.J. 1027.**

3. The Division Bench of this Court in the case of Chandrakant (supra) has referred to the decision of the Supreme Court in the case of Paradip Port Trust Vs. Their Workmen (1976 (II) L.L.J. 409 and held that under Section 36(4) of the Industrial Disputes Act, 1947, a legal practitioner cannot be allowed to represent a party to the proceedings unless the consent of the opposite party is obtained and leave has been granted by the Court/Tribunal. The view taken in the impugned order dated 25.6.2004 by the learned Judge of the II Labour Court at Thane is thus, contrary to the law enunciated in the case of Paradip Port Trust (supra) and followed by this Court in the case of Chandrakant Deshkar (supra).

4. Hence, the petition succeeds and the same is hereby allowed. The impugned order allowing the respondent company to be represented through an advocate is hereby quashed and set aside.

5. Rule made absolute accordingly with no order as to costs.

*****